

SECOND PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION REQUIREMENT
Application Serial No. 10/815,791
Attorney Docket No. 02734.0388-03000

REMARKS

Claims 87-96 and 98-107 are now pending in this application. Claims 89-96 have been amended, claim 97 has been canceled, and claims 98-107 have been added by this Preliminary Amendment. In response to the Restriction Requirement dated February 2, 2005, Applicants elect with traverse to prosecute the claims of Group IV, now claims 96 and 98-107.

Amendments to the Specification

Applicants have amended the section of the specification describing the related applications to update the status of Application Serial No. 09/572,967, which issued as Patent No. 6,719,943 after the initial filing date of this application. This section has also been amended to correct certain grammatical errors and reconcile the language used to describe each related application. As these amendments do not present any new matter, Applicants respectfully request that they be entered without objection.

Response to Restriction Requirement

In the Restriction Requirement dated February 2, 2005, the Office required Applicants to elect one of the following groups of claims for consideration:

- Group I : Claim 87, drawn to a method of making a sheet, classified in class 264, subclass 165;
- Group II : Claim 88, drawn to a sheet, classified in class 428, subclass 98;
- Group III : Claims 89-95, drawn to a container, classified in class 428, subclass 35.7; and,

SECOND PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION REQUIREMENT
Application Serial No. 10/815,791
Attorney Docket No. 02734.0388-03000

- Group IV : Claims 96-97, drawn to a method of making a container, classified in class 264, subclass 553.

Applicants hereby provisionally elect with traverse the claims of Group IV drawn to a method of making a container, classified in class 264, subclass 553. Applicants note that claim 97 has been canceled and claims 98-107 have been added; therefore, Group IV now comprises claims 96 and 98-107, as described in the next section.

Regarding the traverse of the restriction requirement, MPEP § 803 sets forth the two criteria for a proper requirement for restriction, which are (1) the inventions are independent or distinct as claimed, and (2) there is a serious burden on the Examiner. Applicants submit that the search and examination of at least Groups I and IV of this application can be made without serious burden. A search for provisionally elected Group IV, drawn to a method of making a container, would necessarily include a search of the subject matter in Group I, drawn to a method of making a sheet. In fact, the process of claim 96 of Group IV comprises thermoforming an extruded sheet and claim 87 of Group I recites a process for forming an extruded sheet. Proper searches and examination of the Group IV claims would have to overlap that of Group I, at least to some extent. The Office has even indicated that both Groups IV and I are classified in class 264. Therefore, no serious burden can exist on the Examiner to consider both of these groups of claims in the same application.

Further, claim 88 of Group II recites nothing more than the extruded sheet of claim 87 of Group I, which is the product of that recited process. As a result, any search for Groups IV and I would necessarily include a search for Group II, showing no serious burden in considering these three Groups together. The Office has also classified both

SECOND PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION REQUIREMENT
Application Serial No. 10/815,791
Attorney Docket No. 02734.0388-03000

Groups II and III in class 428, showing that proper searches for the subject matters recited by the claims of these groups would necessarily overlap. As such, proper searches for any one of the four Groups identified by the Examiner would necessarily and inevitably include searches for at least some of the subject matter of each of the remaining Groups. Therefore, Applicants believe that the examination of the entire application would not be seriously burdensome upon the Examiner and ask that all pending claims be considered during prosecution.

Claim Amendments and Additions

Applicants have herein amended claims 89-96 and added new claims 98-107. Applicants appreciate the Office's consideration of these claim amendments prior to the substantive examination of this application. These amendments do not add any new subject matter to this application. Further, each of new claims 98-107 is dependent upon claim 96 of Group IV, which is provisionally elected with traverse herein; each of these new claims recite elected subject matter and should be properly considered.

Claim 89 has been amended solely to correct one inconsistency in the language used to recite the polyolefin resin, such that the same terminology is used throughout the claim. Claims 90-95 have been amended solely to correct their dependency from claim 96 to claim 89.

Applicants have amended claim 96 herein. Due to the extent of the amendment, solely for the convenience of the Office Applicants have attached a clean version of claim 96 as Appendix A. Also solely for the convenience of the Office, Applicants present the following Table A, which shows at least one section in the original

SECOND PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION REQUIREMENT
Application Serial No. 10/815,791
Attorney Docket No. 02734.0388-03000

specification for each claim element of pending claims 96 and 98-107 that are currently under consideration due to Applicants' provisional election, with traverse, of the claims of Group IV. Because each new claim recites provisionally elected subject matter and does not recite any new matter, Applicants respectfully request that new claims 98-107 be entered and examined in this application.

Table A — Specification Support for Claims 96 and 98-107

Claim Element	Specification Support
A process for the manufacture of a microwaveable, food contact compatible, disposable, rigid and strong container	Page 2, lines 15-18
a micronodular surface on at least one side of the container	Page 2, lines 19-20; page 3, lines 2-4
a melting point of no less than about 250°F	Page 2, lines 20-21
said container being dimensionally stable and resistant to grease, sugar, and water at temperature up to at least about 220°F and of sufficient toughness to be resistant to cutting by serrated polystyrene flatware	Page 2, lines 21-23; original claim 45
thermoforming	Page 14, lines 4-20
at least one extruded sheet comprising an admixture	Page 12, lines 7-10
platy inorganic material	Page 6, lines 20-21
polyolefin	Page 2, line 16
thermoforming is conducted at a temperature of at least about 265°F	Page 49, line 6
results in the micronodular surface on at least one side of the container	Page 17, lines 11-15; page 3, lines 2-4
mica	Page 6, lines 20-21
polypropylene, polypropylene polyethylene copolymer, and polypropylene polyethylene blend	Page 2, lines 15-18

SECOND PRELIMINARY AMENDMENT AND
 RESPONSE TO RESTRICTION REQUIREMENT
 Application Serial No. 10/815,791
 Attorney Docket No. 02734.0388-03000

Claim Element	Specification Support
draped, vacuum, pressure, free blowing, matched die, billow draped, vacuum snap-back, billow vacuum, plug assist vacuum, plug assist pressure, pressure reverse draw with plug assist vacuum, reverse draw with plug assist, pressure bubble immersion, trapped sheet, slip, diaphragm, twin-sheet cut sheet, twin-sheet rolled forming, and pillow forming	Page 20, line 21 to page 21, line 14
vacuum forming the container in a mold controlled to form the micronodular surface on the surface of the container not in contact with the mold surface	Page 16, line 17 to page 17, line 15; Figure 2
at least one additive chosen from coupling agents, process aids, lubricants, nucleating agents, antistatic agents, antioxidants, and coloring agents	Page 9, lines 9-10; page 10, lines 9-11; page 16, lines 3-11
the at least one additive is present in the admixture	Page 9, lines 10-15
silanes; organofunctional silicone compounds; chlorinated hydrocarbons with and without silane; <i>in situ</i> polymerization products of monomers; modified polyolefins; maleic anhydride; acrylic modified polypropylene; and maleic anhydride modified polypropylene	Page 10, line 18 to page 8
waxes and fluorinated polymers	Page 10, lines 9-10
pigments and dyes	Page 16, lines 3-13
the pigment comprises at least one of carbon black, titanium dioxide, zinc oxide, iron oxides, and mixed metal oxides	Page 16, lines 9-10

Table A shows that each element of new claims 98-107 is entirely supported by the original specification and thus does not constitute any new matter. As each claim also recites the subject matter of provisionally elected Group IV, Applicants believe that at least claims 96 and 98-107 should now be ready for examination in this application.

SECOND PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION REQUIREMENT
Application Serial No. 10/815,791
Attorney Docket No. 02734.0388-03000

Conclusion

Applicants have herein presented a preliminary amendment and provisionally elected claims 96 and 98-107 of Group IV for examination in this application. Applicants have also traversed the restriction requirement, presenting arguments showing that each of the pending claims should properly be considered in this application as examining all of the claims together would not constitute a serious burden on the Examiner. If the Office has any objection to the claims as amended in this paper, or has any other questions or concerns regarding this application, Applicants respectfully request that the Office contact the undersigned to discuss an appropriate resolution.

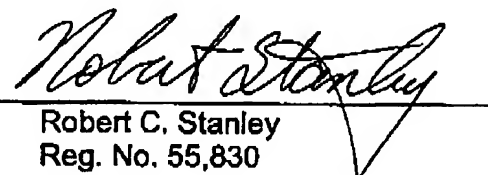
If there is further extension of time or any fee due in connection with the filing of this Preliminary Amendment, such further extension is hereby requested and the fee may be charged to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 4, 2005

By:


Robert C. Stanley
Reg. No. 55,830

Telephone: 404-653-6441
Facsimile: 202-408-4400

Attachment

Appendix A: Clean Version of Amended Claim 96